



To:	Cory Fong, Chair and Members of the Commission
From:	Stephen Cordi, 2013 Resolutions Committee Chair
Date:	July 17, 2013
Subject:	Report of the Resolutions Committee

I am pleased present to the Commission the following draft resolutions for its consideration:

1. Resolution 2003-01, State-Tribal Tax Issues,
2. Policy Resolution Supporting ULC Project to Revise UDITPA, and
3. Policy Statement 2002-02, Ensuring the Equity, Integrity and Viability of State Income Tax Systems
4. Resolution on Telecommunications Sourcing and Definitions
5. Honorary Resolutions 2013A, 2013B, 2013C and 2013D.

The first three items are scheduled to be renewed or sunset in 2013. The fourth is a proposed new resolution developed by the Uniformity Committee, and the fifth are honorary resolutions thanking the leadership of the Audit, Nexus, Litigation and Uniformity Committees, respectively, for their hard work over the past year.

Resolutions

1. Policy Resolution 2003-01, State-Tribal Tax Issues,

This policy resolution was originally adopted in 2003, and was renewed, without amendment, in 2008. It encourages states and tribes to enter into agreements to resolve tax jurisdiction disputes rather than resort to the courts.

Several years ago the Commission began a process of doing away with policy resolutions. As each year progressed, existing policy resolutions were either rewritten as policy statements, incorporated into existing policy statements, or sunset.

In 2009, the Commission adopted Policy Statement 2009-01, Tribal-State Tax Issues, a more comprehensive statement of the difficult tax matters facing tribes and states, and

encouraging both to enter into agreements to resolve any disputes. Policy Statement 2009-01 is slated for reconsideration in 2014.

Given that 2003-01 is a Policy Resolution, and that a Policy Statement exists on this subject, the recommendation is that Policy Resolution 2003-01 be allowed to sunset.

2. Policy Resolution Supporting ULC Project to Revise UDITPA,

This Policy Resolution was adopted in 2008 in support of the Uniform Law Commission's project to revise UDITPA. In June 2009, after considerable public comment and controversy, the ULC discharged its UDITPA Study Committee and explained that no further work would be undertaken on UDITPA at that time, with the understanding that it might re-open the effort at a later time if substantial support for revising UDITPA becomes apparent. The Commission's effort to revise Article IV of the model Compact (UDITPA), continues.

It is recommended that this Policy Resolution addressing the ULC be allowed to sunset.

3. Policy Statement 2002-02, Ensuring the Equity, Viability and Integrity of State Income Tax Systems (Redlined and Clean Versions)

This Policy Statement, originally adopted in 2002, was readopted with minor amendments in 2008. The main 2013 changes are to reflect that the Commission has since developed model laws to help address many of the concerns expressed in the Policy Statement. Significant changes also occur in §2.3, Opposing Federal Efforts to Restrict State Business Tax Authority. The current text focuses heavily on the "tax haven" activities resulting from the extension of P.L. 86-272 under BATSA. While that is still an important issue, the MTC's stance has broadened to focus also on the harm BATSA would cause to small businesses, as well as friction with the 10th Amendment. Note that the changes would recommend outright repeal of P.L.86-272. The original version recommended Congress pass a law releasing a state from P.L.86-272 if the state adopted a factor presence nexus rule.

4. Proposed Resolution on Telecommunications Sourcing and Definitions

In 2007, the representatives from the telecommunications industry made a presentation to the MTC regarding a possible uniformity project that consisted of a proposal for telecommunications centralized administration, a proposal for telecommunications definitions and sourcing rules, and a proposal to draft a statute to minimize the industry's exposure to class action lawsuits. The Executive Committee passed the possible project to the Uniformity Committee for its consideration. The Committee decided to take up the project. First, it divided the project into subprojects, because each involved different considerations. The first subproject to be completed was the telecommunications centralized administration subproject, which is now an official MTC uniformity recommendation to the states. The second subproject concerns the industry's request for uniform telecommunications definitions and sourcing rules. However, the Streamlined

Sales and Use Tax Agreement already contain these provisions.¹ Rather than repeat or reconsider what Streamlined has already accomplished, the committee determined that perhaps a resolution would be appropriate. On May 9, 2013, the Executive Committee voted to refer the attached draft resolution to the resolutions committee. The Resolutions Committee proposes no changes to the draft resolution.

5. Honorary Resolutions 2013A-2013D

Resolution No. 2013A - In Recognition of Rick DeBano, Audit Committee Chair, and Frank Hales, Audit Committee Vice-Chair

Resolution No. 2013B - In Recognition of Marshall Stranburg, Litigation Committee Chair, Mark Wainwright and Clark Snelson, Litigation Committee Co-Vice Chairs

Resolution No. 2013C - In Recognition of Lennie Collins, Nexus Committee Chair

Resolution No. 2013D - In Recognition of Wood Miller, Uniformity Committee Chair, Robynn Wilson, Income and Franchise Tax Uniformity Subcommittee Chair, and Richard Cram, Sales and Use Tax Uniformity Subcommittee Chair

¹ Sourcing provisions: Section 314 (rules), 315 (definitions). Telecommunications Definitions: Library of Definitions, Appendix C, Part II.
<http://www.streamlinedsalestax.org/uploads/downloads/Archive/SSUTA/SSUTA%20As%20Amended%205-24-12.pdf>